



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 14, 1998

Mr. Frank Crull
Assistant General Counsel
Texas Department of Public Safety
5805 N. Lamar Boulevard
Austin, Texas 78773-0001

OR98-3109

Dear Mr. Crull:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119446.

The Texas Department of Public Safety (the "department") received an open records request for "the information from the computerized master file of all citations written for Officer Jorge Vargas Jr between the dates of 1/1/97 and 6/30/98." You contend that the department may withhold the requested information in its entirety pursuant to sections 552.108 and 552.130 of the Government Code.

You contend that the information at issue may be withheld pursuant to section 552.108, the "law enforcement" exception, under a variety of theories. You first state that the requested records "reflect the ongoing enforcement of license and weight laws by officers of this agency," and that with the requested information "an individual or group could easily establish the work habits of Trooper Vargas . . . and the License and Weight Troopers stationed in El Paso County" and thus enable those individuals or groups "to estimate . . . where certain elements of law enforcement are more likely to be at certain dates and times." You have not, however, demonstrated or otherwise established exactly why such would be the case.¹ We therefore cannot conclude, based on the information before us, that the release of the requested information would "interfere with the detection, investigation, or prosecution of crime." See Gov't Code § 552.108(a)(1). The department may not withhold the information on these grounds.

¹We note that you have submitted to this office for review as responsive to the request a single database entry. It is therefore not possible for this office to determine the validity of your argument.

You next contend that the release of the requested information “would enable the individual to anticipate the location where Trooper Vargas or any trooper in a similar situation will be working and force a showdown.” You have provided this office with no facts, however, that would lead us to conclude that such a “showdown” would be likely to occur. We therefore dismiss this argument as being entirely too speculative for our consideration here.

You also argue that the department may withhold the requested information because not all of the citations issued may have resulted in a conviction or deferred adjudication. *See* Gov’t Code § 552.108(a)(2). Please note that the mere fact that some of the citations may not have resulted in conviction or deferred adjudication is not a rationale for withholding the entire requested database. Nor have you directed our attention to any citation that in fact did not have such a result so as to trigger the applicability of section 552.108(a)(2). Because you have not met your burden under section 552.108(a)(2), the department may not withhold any of the requested information under this exception.

Finally, you raise section 552.101 of the Government Code in conjunction with chapter 730 of the Transportation Code. In this regard, we note that section 552.130 of the Government Code governs the release and use of information obtained from motor vehicle records. Section 552.130 provides as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state;

(2) a motor vehicle title or registration issued by an agency of this state; or

(3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

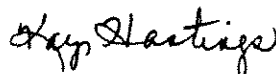
Some of the information at issue consists of the types of information described by section 552.130(a)(1). We therefore must determine whether the release of any of the information described by this subsection is authorized under chapter 730 of the Transportation Code.

Section 730.004 of the Transportation Code governs the release of "personal information" about any person obtained in connection with a motor vehicle record by an agency that maintains or compiles motor vehicle records.² Portions of the representative sample submitted to this office consist of the name, address, and driver's license number of the driver receiving a traffic citation. Although section 730.003(6) of the Transportation Code includes in its definition of "personal information" an individual's name, address, and "driver identification number," this section expressly excludes from the definition any "information on . . . driving or equipment-related violations." Consequently, because the driver's name, address, and driver's license number at issue here do not come within the definition of "personal information," we conclude that section 730.004 neither makes confidential nor authorizes the release of these types of information.

On the other hand, as noted above, section 552.130 (a)(1) of the Government Code prohibits the release of all information that relates to "a motor vehicle operator's or driver's license or permit issued by an agency of this state" except to the extent that such information is authorized to be disclosed as provided in chapter 730 of the Transportation Code. We have marked the information that the department must withhold pursuant to section 552.130(a)(1).³ The remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/RWP/ch

²See Transp. Code § 730.003(1) (defining "agency"). In this instance, we believe that the department is an "agency," as defined by section 730.003(1) of the Transportation Code.

³In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Ref.: ID# 119446

Enclosures: Submitted documents

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(w/o enclosures)